

MINUTES OF MEETING

A meeting of the Chiropractic Physicians' Board of Nevada was held on Friday and Saturday, April 22 and 23, 2005 in the Meeting Room of the Clarion Hotel and Suites, 325 East Flamingo Road, Las Vegas, Nevada 89109.

The following Board members were present at the roll call:

Margaret Colucci, DC, Vice President
Donald H. Miner, DC, Secretary
Curtis Potts, DC, Member
Stephanie Youngblood, DC, President

CPBN Member Ian Yamane, DC, arrived at 1:45 PM. Consumer Member Bobby Lazenby was not present. Also present were Deputy Attorney General George Campbell, Dr. Jason Ramos and his attorney, Treva J. Hearne, Brett Crowley, DC, Ramin Vaezi, DC, Barry Johnson and CPBN Executive Director Cindy Wade. A Court Reporter was present to record the administrative hearing under Agenda Item 6.

AGENDA ITEM 1 President Dr. Stephanie Youngblood determined that a quorum was present and called the meeting to order at 1:38 PM.

AGENDA ITEM 2 Dr. Colucci led the Pledge of Allegiance.

AGENDA ITEM 3 Dr. Miner moved for approval of the agenda. Dr. Colucci seconded and the motion passed unanimously.

AGENDA ITEM 4 Dr. Miner has reviewed the material submitted by Dr. John Robinson in support of his request for the Board's approval of use of the "Keesey Technique". This non-invasive procedure is taught at Western States Chiropractic College. Dr. Miner moved to approve the use of this technique. Dr. Potts seconded the motion and it passed unanimously.

AGENDA ITEM 5 Following discussion, Dr. Miner moved to deny the request of John F. Tomburo, Jr., DC, for waiver of the requirement under NRS 634.090, subsection 1(c2), of active practice for 7 of the preceding 10 years in order to apply for DC licensure under the SPEC provision. Dr. Youngblood seconded and the motion passed unanimously.

AGENDA ITEM 6 At 1:50 PM the 2:00 PM time certain was waived by Dr. Jason Ramos. Dr. Youngblood determined that the Administrative Hearing to reconsider the conditions placed on Dr. Ramos's License No. B1034 should proceed. At Dr. Youngblood's request, Treva J. Hearne, representing Dr. Ramos, reviewed Dr. Ramos's activities since his conditional license was granted in March, 2004. She presented a letter from Dr. R. Thomas Turner of the Parr Clinic which stated that the results of a recent alcohol and drug screen performed on Dr. Ramos were negative. Dr. Turner has determined that Dr. Ramos is a low risk for any alcohol or controlled substances offenses at this time. Dr. Colucci moved to lift the probation of Dr. Ramos's license effective June 1, 2005 on the condition that he continue to be tested periodically. Dr. Yamane seconded the motion. Following discussion, Dr. Colucci amended her motion to stop Dr. Ramos's probationary period effective June 1, 2005. Dr. Yamane agreed to the amended motion. Dr. Potts seconded the amended motion which passed unanimously.

AGENDA ITEM 7 The Board considered a proposed settlement agreement in the Matter of Mark J. Mattoon, DC, License No. B262. Dr. Colucci moved that the Board not accept the proposed agreement and that the Board require the following terms for an agreement: Dr. Mattoon must (1) admit to the allegations set forth in Items One, Two, Three and Four in the proposed agreement, (2) pay a fine in the amount of \$4,000, (3) reimburse the CPBN for all costs in this matter, including investigator and attorney fees and the Board's costs, (4) attend two weekend courses on the subject of records management, (5) serve two years of probation, and (6) hire a compliance officer to monitor his probation and submit quarterly progress reports to the CPBN. Dr. Miner seconded and the motion passed unanimously. Dr. Mattoon is to be noticed for a hearing in Reno on June 10, 2005. In lieu of a hearing on that date, the Board will consider approval of an agreed settlement that contains the above terms if it is received by June 3.

AGENDA ITEM 9 Dr. Ramin Vaezi was present and the Board addressed his request for waiver of the CCE accreditation requirement under NRS 634.090, subsection 1(b). Dr. Vaezi's situation is the same as a prior applicant who graduated from Southern California Chiropractic College when it was not accredited by the CCE for whom this requirement was waived. Dr. Yamane moved for approval of Dr. Vaezi's request for waiver of NRS 634.090, subsection 1(b). Dr. Colucci seconded the motion and it passed unanimously.

AGENDA ITEM 8 The Board considered a proposed Stipulation to Settle Disciplinary Action and Order in the Matter of Craig M. Black, DC. Dr. Potts moved to approve the Stipulation and Order as proposed. Dr. Colucci seconded and the motion passed with all in favor except Dr. Miner who abstained because he was the investigating Board member.

AGENDA ITEM 10 Jeffrey Fine, DC, has requested that the amended notice of his disciplinary action be mailed by the Board to the agencies who received the original notice. Dr. Potts so moved, Dr. Miner seconded and the motion passed unanimously.

AGENDA ITEMS 11A Regarding **Complaint 04-5**, Cindy stated that Senior DAG Bob Auer has requested the Board's recommendation for its disposition. Dr. Colucci moved that Mr. Auer be requested to notice this matter for hearing in Reno on June 10, 2005. In lieu of a hearing on that date, the Board will approve an agreed settlement if it is received by June 3 and includes the following terms: The doctor must agree to three years of probation during which quarterly progress reports must be submitted to the CPBN from his probation officer. Dr. Yamane seconded the motion and it passed unanimously.

AGENDA ITEM 11B Dr. Miner reviewed **Complaint 04-20** which was filed against a DC because he did not report a misdemeanor for domestic violence while his license was inactive until he applied for activation. Dr. Colucci moved that a strong warning letter should be sent to the doctor and the complaint be dismissed. Dr. Yamane seconded and the motion passed unanimously.

AGENDA ITEM 11C **Complaint 04-21** was filed by a DC because another DC advertises Chiropractic Orthopedics. Dr. Miner stated that the advertising DC has properly filed his Chiropractic Orthopedic Diplomate credentials with the Board and is therefore qualified to so advertise. Dr. Yamane moved for dismissal of the complaint which was seconded by Dr. Colucci and passed unanimously.

AGENDA ITEM 11D Dr. Yamane has thoroughly investigated **Complaint 05-2** and has determined that the charges of inappropriate billing and patient injury are unsubstantiated. It appears that this P.I. patient, who had 26 visits, is dissatisfied with the settlement amount. There is no violation and Dr. Colucci moved to dismiss the complaint. Dr. Youngblood seconded the motion and it passed unanimously.

AGENDA ITEM 11E Dr. Miner has investigated **Complaint 05-3** which alleges fraudulent billing and unclean conditions. The DC submitted the patient records including a letter from the patient's attorney that he no longer represents him. He described the patient's bizarre behavior in his office for which he recommended the patient back to his psychiatrist. Dr. Youngblood moved to dismiss the complaint because there was no evidence of a violation. Dr. Colucci seconded and the motion passed unanimously.

AGENDA ITEM 12 Dr. Yamane moved for approval of the March 8, 2005 meeting minutes. Dr. Potts seconded and the motion passed unanimously.

AGENDA ITEM 13 The recommendations for revisions to the proposed record review regulation were reviewed. Dr. Miner will make the agreed changes and the revised version will be addressed at the next meeting.

AGENDA ITEM 14 The Board's current position as to independent contractors who have patient contact as a CA or a CA for Massage in a chiropractor's office is that they must file an application with the Board. Any person who wishes to perform services involving patient contact other than CA or CA for Massage work in a chiropractor's office is precluded from doing so unless he/she holds a state-level license in that field. This needs to be addressed by regulation.

AGENDA ITEM 15 Dr. Yamane has done considerable research as to whether chiropractors are qualified to perform physical exams related to the cardiovascular system that include detection of systolic and diastolic areas of the exam on the same level as any general practitioner. He will follow up by contacting the chiropractic colleges to determine if this is included in their curriculum and may request a survey on this subject by the FCLB.

AGENDA ITEM 16 Dr. Yamane proposed development of a preceptor/postceptor program. At this time 27 states allow students to adjust under the direct supervision of a DC during their tenth trimester. He feels this would produce better doctors. The chiropractic colleges monitor their work and provide malpractice insurance. Dr. Yamane will provide wording for a proposed regulation at the next meeting.

The meeting recessed at 5:30 PM and reconvened at 9:38 AM on Saturday, April 23, 2005. The following Board Members were present at the roll call:

Margaret Colucci, DC, Vice President
Donald H. Miner, DC, Secretary
Curtis Potts, DC, Member
Ian Yamane, DC, Member
Stephanie Youngblood, DC, President

Consumer Member Bobby Lazenby was not present. Also present were DAG George Campbell and CPBN Executive Director Cindy Wade.

AGENDA ITEM 11-C Cindy Wade stated that she discovered that she had inadvertently duplicated Complaint No. 04-21 and asked that the second complaint be addressed for disposition. Dr. Miner explained that this complaint was filed by a DC against another DC who advertises “Chiropractic Orthopedic” in his window. The advertising DC does not have the proper credentials filed with the Board. Dr. Yamane moved that the DC be sent a letter of instruction to remove the misleading advertisement, “Chiropractic Orthopedic”, from his window and that the complaint be dismissed. The motion was seconded by Dr. Colucci and passed unanimously.

AGENDA ITEM 17 Dr. Miner gave a verbal report as to the status of current legislation, including the Board’s bill, SB174, the AG’s bill, SB276, and SB168, the PT bill. Our bill is progressing well and Susan Fisher is doing a great job.

AGENDA ITEM 18 Dr. Youngblood and Dr. David Rovetti comprise the current CE Committee. There is a need to improve the CE applications and to beef up the regulations for better clarification of the criteria. The possibility of adding more doctors to the CE Committee was discussed and Drs. Potts and Yamane will each try to find two doctors to add to the committee. The fee should be increased to the maximum of \$25.00 in the regulations. The proposed regulations changes will be addressed at the June 10, 2005 meeting.

AGENDA ITEM 19 The need to expedite resolution of disciplinary matters was discussed. Board members will look into the possibility of finding a reasonably priced attorney outside the Attorney General's office who is well-versed in administrative law. A form to be used by investigating Board members for negotiation of settlements will be generated. This matter will be addressed again at the next Board meeting.

AGENDA ITEMS 20-23 The Executive Director's Reports: Financial, Complaints Received, Status of Current Probations and Legal/Investigatory Costs were informational written reports and there was no discussion.

AGENDA ITEM 24 Under the Correspondence Report, there was no discussion regarding correspondence received from Assemblywoman Chris Giunchigliani and the NBCE.

The Board advised Cindy Wade that the designation of "DC" in an advertisement adequately identifies the advertiser as a chiropractor.

Dr. Miner has resolved a problem between a DC and his patient who was unhappy because she received a postcard notifying her that they had made an appointment for her which she did not request. The DC's office manager sent a letter of apology to the patient and Dr. Miner has determined that the patient has accepted their explanation that it was a clerical error. A positive response was received from a DC who mailed a flyer that included several advertising violations.

Cindy will prepare a Newsletter to be mailed as soon as possible after the Board's legislative bill has been signed so that the statutory changes can be included.

AGENDA ITEM 25 There were no Board Member comments

AGENDA ITEM 26 There was no public comment.

AGENDA ITEM 27 The meeting adjourned at 12:00 Noon.

Approved: June 10, 2005

Donald H. Miner, DC, Secretary